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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2007 354

DAWN L. WILLIS
216 Mc Donald Way
Bakersfield, CA 93309

A C C U S A T I O N

Respiratory Care Practitioner License No. 22952

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about April 28, 2003, the Respiratory Care Board issued Respiratory Care Practitioner License Number 22952 to Dawn L. Willis (Respondent). The Respiratory Care Practitioner License expired on August 31, 2006, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 4. Section 118, subdivision (b), of the Code provides that the suspension,
2 expiration, or forfeiture by operation of law of a license issued shall not deprive the
3 Board of jurisdiction to proceed with a disciplinary action during the period within which
4 the license may be renewed, restored, reissued or reinstated.

5 5. Section 3710 of the Code states: “The Respiratory Care Board of
6 California, hereafter referred to as the board, shall enforce and administer this chapter
7 [Chapter 8.3, the Respiratory Care Practice Act].”

8 6. Section 3718 of the Code states: “The board shall issue, deny, suspend,
9 and revoke licenses to practice respiratory care as provided in this chapter.”

10 7. Section 3750 of the Code states:
11 “The board may order the denial, suspension or revocation of, or the imposition of
12 probationary conditions upon, a license issued under this chapter, for any of the following
13 causes:

14 “(d) Conviction of a crime that substantially relates to the qualifications,
15 functions, or duties of a respiratory care practitioner. The record of conviction or a
16 certified copy thereof shall be conclusive evidence of the conviction.”

17 “(g) Conviction of a violation of any of the provisions of this chapter or of any
18 provision of Division 2 (commencing with Section 500), or violating, or attempting to
19 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
20 violate any provision or term of this chapter or of any provision of Division 2
21 (commencing with Section 500).”

22 “(j) The commission of any fraudulent, dishonest, or corrupt act which is
23 substantially related to the qualifications, functions, or duties of a respiratory care
24 practitioner.”

25 8. Section 3752 of the Code states:

26 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
27 made to a charge of any offense which substantially relates to the qualifications,
28 functions, or duties of a respiratory care practitioner is deemed to be a conviction within

1 the meaning of this article. The board shall order the license suspended or revoked, or
2 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
3 conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section
5 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
6 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
7 accusation, information, or indictment.”

8 9. California Code of Regulations, title 16, section 1399.370, states:

9 “For the purposes of denial, suspension, or revocation of a license, a crime or act
10 shall be considered to be substantially related to the qualifications, functions or duties of
11 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
12 perform the functions authorized by his or her license or in a manner inconsistent with the
13 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
14 those involving the following:

15 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
16 abetting the violation of or conspiring to violate any provision or term of the Act.”

17 “(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny.”

18 COST RECOVERY

19 10. Section 3753.5, subdivision (a) of the Code states:

20 "In any order issued in resolution of a disciplinary proceeding before the board,
21 the board or the administrative law judge may direct any practitioner or applicant found to have
22 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
23 investigation and prosecution of the case."

24 11. Section 3753.7 of the Code states:

25 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
26 include attorney general or other prosecuting attorney fees, expert witness fees, and other
27 administrative, filing, and service fees."

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1 12. Section 3753.1 of the Code states:

2 "(a) An administrative disciplinary decision imposing terms of probation may
3 include, among other things, a requirement that the licensee-probationer pay the monetary costs
4 associated with monitoring the probation."

5 FIRST CAUSE FOR DISCIPLINE

6 (Substantially-related convictions)

7 13. Respondent is subject to disciplinary action under code sections 3750(d),
8 3752, CCR 1399.370(a) and (b) in that she has two substantially-related convictions: in 2007, she
9 was convicted of violating Penal Code sections 460(b) [larceny], Penal Code section 496(a)
10 [possession of stolen property] and Penal Code section 470(a) [forgery] and in 2008, she was
11 convicted of violating Penal Code section 496(a) [receiving known stolen property.] The
12 circumstances are as follows:

13 2007 CONVICTION

14 14. On or about May 18, 2007, M.C. and S.C. reported to the Bakersfield
15 Police Department that their car had been broken into and M.C.'s purse containing credit cards
16 and blank checks was stolen. Officer Joel Luera investigated the complaint, and obtained
17 information that an individual matching Respondent's description had paid for merchandise by
18 writing a check in M.C.'s name at a Longs Drug store. Officer Luera obtained a Department of
19 Motor Vehicles photograph of Respondent and compared the photograph to the Longs Drug store
20 surveillance videotape of the sales transaction with Respondent. He observed that the individual
21 in the photograph was the same individual in the video surveillance tape, and he attempted to
22 contact Respondent at her residence address. A woman who identified herself as Respondent's
23 mother stated that Respondent did not live there, but she would tell Respondent to telephone
24 Officer Luera.

25 15. On or about June 12, 2007, Respondent telephoned Officer Luera and
26 agreed to meet him on June 15, 2007; however she failed to arrive. On June 22, 2007,
27 Respondent agreed to meet with Officer Luera and arrived as scheduled. Officer Luera showed
28 Respondent the Longs Drug store surveillance videotape and she admitted that she was the

1 woman in the videotape. When Officer Luera asked her why she forged stolen checks, she
2 requested an attorney. Based on the videotape and Respondent's admission, Officer Luera
3 arrested Respondent on charges of violating Penal Code sections 460(b) [larceny], Penal Code
4 section 496(a) [possession of stolen property] and Penal Code section 470(a) [forgery.]

5 16. On or about June 26, 2007, a criminal complaint titled *People of the State*
6 *of California vs. Dawn L. Willis*, case no. BM7132092A was filed in Superior Court, Kern
7 County, Bakersfield Judicial District. Count 1 charged Respondent with violating Penal Code
8 sections 460(b) [larceny.] Count 2 charged Respondent with violating Penal Code section
9 496(a) [possession of stolen property]. Count 3 charged Respondent with a felony, violating
10 Penal Code section 470(a) [forgery.] All three counts alleged an enhancement, stating that the
11 charges were filed as misdemeanors pursuant to Penal Code section 17(B)(4).

12 17. On or about June 26, 2007, Respondent entered a plea of nolo contendere
13 to all counts, and was convicted. She was granted three years probation, ordered to pay fines,
14 serve seven days in custody with credit for time served of five days plus two days good and work
15 time for a total of seven days. She was ordered to make restitution for damages to the victim.
16 On November 15, 2007, Respondent's probation was revoked for failure to pay fines, and on
17 February 14, 2008, the Court issued a bench warrant which is currently outstanding.

18 2008 CONVICTION

19 18. On or about August 25, 2008, C.H. filed a report with the Bakersfield
20 Police Department that her Blackberry Pearl cellular telephone was stolen from her motel room
21 sometime during the night of August 24, 2008. C.H. told Police Officer Marcy White that C.H.
22 phoned her cellular telephone number and a male answered the phone (later identified as Q.R.)
23 Q.R. said that he took the phone from the person who found it, and that he would return her
24 phone for \$200.00. Q.R. told C.H. to go to the Del Taco parking lot, and a woman wearing a
25 striped shirt would give C.H. the cellular phone after C.H. gave her \$200.00. C.H. informed the
26 Bakersfield Police Department of the conversation, and Officers Finney, Stratton and White
27 drove to the location. The officers observed a white female (later identified as Respondent)
28 wearing a striped shirt, and a male (later identified as Q.R.) standing in the parking lot.

1 19. C.H. drove into the parking lot and held \$200.00 outside the driver's side
2 car window, at which time Respondent and Q.R. approached her car. Q.R. held out the cellular
3 telephone and C.H. reached for it, taking it from him. C.H. dropped the \$200.00 on the ground,
4 and Respondent grabbed the money. Both Respondent and Q.R. walked away from C.H.'s car.
5 At that point, the officers stopped Respondent and Q.R., and they were interviewed at the
6 Bakersfield Police Department after being given their Miranda rights.

7 20. The officer's investigation found that Q.R. and Respondent had stayed at
8 the same motel as C.H., and Q.R. claimed "Mark" had taken the cellular phone; however, Q.R.
9 had no contact information for "Mark." Respondent contradicted this story and claimed that
10 Q.R. had found the cellular phone and he was planning to return the phone in exchange for
11 money. Based on the investigation, Q.R. and Respondent were arrested for violating Penal Code
12 section 496, possession of stolen property and Penal Code section 182(a), conspiracy.

13 21. On or about August 27, 2008, a felony criminal complaint titled *People of*
14 *the State of California vs. Dawn L. Willis*, case no. BF124652B was filed in Superior Court, Kern
15 County, Bakersfield Judicial District. Count 1 charged Respondent with violating Penal Code
16 section 496(a) [receiving known stolen property.]

17 22. On or about November 25, 2008, Respondent was convicted on her plea of
18 nolo contendere to a misdemeanor violation of Penal Code section 496(a) [receiving known
19 stolen property.] She was sentenced to pay fines, serve sixty days in jail with credit for two days
20 time served, and summary probation was granted for three years.

21 23. Therefore, Respondent is subject to disciplinary action under code sections
22 3750(d), 3752, CCR 1399.370(a) and (b) in that she has two substantially-related convictions.

23 SECOND CAUSE FOR DISCIPLINE

24 (Dishonest Act)

25 24. Paragraphs 14 through 22 are incorporated herein.

26 25. Respondent is subject to disciplinary action under code section 3750(j)
27 [dishonest acts] in that her actions alleged hereinabove constitute dishonest acts.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License Number 22952, issued to Dawn L. Willis.
2. Ordering Dawn L. Willis to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: January 13, 2009

Original signed by Lianne Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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